

206678

November 19, 2002

**VIA FEDERAL EXPRESS**

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423-0001



**Re: Surface Transportation Board Docket No. AB-6 (Sub-No. 399X);  
The Burlington Northern and Santa Fe Railway Company Abandonment  
of Reynolds, Nebraska to Endicott, Nebraska**

Attorneys at Law

311 South Wacker Drive  
Suite 3000  
Chicago, Illinois  
60606-6677  
Tel 312.360.6000

Brian Nettles  
Paralegal  
Direct 312.360.6336  
Fax 312.360.6596  
bnettl@  
freebornpeters.com

Chicago

Springfield

Dear Secretary Williams:

Enclosed for filing in the referenced docket are the original and ten copies of The Burlington Northern and Santa Fe Railway Company's Notice of Exemption, and a check for \$2,700.00, covering the filing fee.

Please acknowledge receipt of this material by date stamping the enclosed copy of this letter and returning it to me in the enclosed self-addressed stamped envelope.

The environmental and historic reports have been forwarded to the responsible agencies and copies have been directed to the Section of Environmental Analysis. The Notice of Exemption includes a certificate of notice upon various interested state and federal authorities (the U. S. Department of the Interior – National Park Service, Recreation and Conservation Assistance Program; the U. S. Department of the Interior – National Park Service, Land Resource Division; the Department of Defense, Military Traffic Management Command; the Nebraska Public Service Commission; the Nebraska Department of Roads; and the Chief of Forest Service, U. S. Department of Agriculture).

Sincerely,

Brian Nettles

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Office of Proceedings

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Part of  
Public Record

/bn  
Enclosures

**FEE RECEIVED**

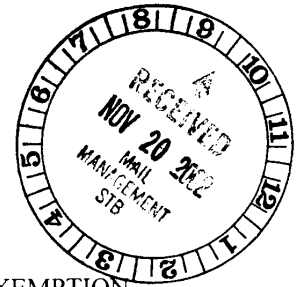
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SURFACE  
TRANSPORTATION BOARD

**FILED**

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SURFACE  
TRANSPORTATION BOARD



BEFORE THE  
SURFACE TRANSPORTATION BOARD

Abandonment of a line of Railroad  
Between BNSF M.P. 127.83 near Reynolds  
and M.P. 117.03 near Endicott in  
Jefferson County, Nebraska

NOTICE OF EXEMPTION  
Docket No. AB-6  
(Sub-No. 399X)

TO THE SURFACE TRANSPORTATION BOARD:

The Burlington Northern and Santa Fe Railway (BNSF) hereby notifies the Board that it intends to abandon its line of railroad between BNSF M.P. 127.83 near Reynolds and M.P. 117.03 near Endicott, in Jefferson County, Nebraska, a total distance of 10.8 miles, pursuant to the Board's Exemption of Out of Service Rail Lines, 49 C.F.R. § 1152.50 and in support of the Notice, respectfully provides the following information:

I. Proposed consummation date for the abandonment.

January 9, 2003

II. Certification required in 49 C.F.R. § 1152.50(b)

The attached Certification of Michael Smith certifies that no formal complaint filed by a user of rail service on this line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line is pending with the Board or any U.S. District Court or has been decided in favor of a complainant within the last two years. The attached Verification of Richard A. Batie certifies that no local traffic has moved over this line for at least two (2) years and any overhead traffic on the line can be rerouted over other lines.

III. Information required by C.F.R. § 1152.22(a)(1-4), (7), (8) and (e)(4).

(a) General

- (1) Exact name of Applicant.

The Burlington Northern and Santa Fe Railway

Company

- (2) Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

Applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

- (3) Relief sought.

BNSF seeks an exemption from Surface Transportation Board approval authorizing the abandonment and discontinuance of service of the Reynolds to Endicott, Nebraska line specified above.

- (4) Detailed map of the subject line.

See Exhibit A.

- (5) Name, title and address of representative of applicant to whom correspondence should be sent.

Michael Smith  
Freeborn & Peters  
311 S. Wacker Dr., Suite 3000  
Chicago, IL 60606-6677

- (6) List of all United State Postal Service ZIP Codes that the line traverses.

The Reynolds to Endicot, Nebraska line traverses United States Postal Service Zip codes 68429, 68350 and 68352.

- (7) Statement of whether the properties proposed to be abandoned are suitable for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

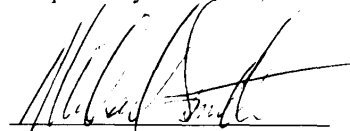
The right of way may be suitable for use for other public purposes such as a trail. On part of the properties involved, title considerations may affect the conveyance of the land for use other than railroad purposes. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

#### IV. Level of protection.

The interest of railroad employees will be protected by the conditions imposed in Oregon Short Line RR Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979)

V. Certification that the notice requirements of §§ 1152.50(d)(1) and  
1105.11 have been met. attached.

Respectfully submitted,



Michael Smith  
Freeborn & Peters  
311 S. Wacker Dr. Suite 3000  
Chicago, Illinois 60606-6677  
Phone: (312) 360-6724  
Fax: (312) 360-6598

Date: November 18, 2002

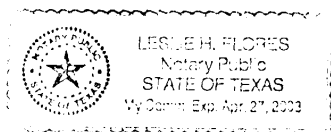
VERIFICATION

STATE OF TEXAS            )  
  )ss  
COUNTY OF TARRANT    )

Richard A. Batie makes oath and says he is Manager, Shortline Development in Shortline/Interline development of the Merchandise Business Unit in the Network Development department of The Burlington Northern and Santa Fe Railway Company; that he has been authorized by the Applicant to verify and file with the Surface Transportation Board the foregoing Notice of Exemption in AB-6 (Sub-No. 399X); that he affirms that the line has had no local traffic in the prior two (2) years and that there is no overhead traffic to be rerouted; that he has carefully examined all of the statements in the Notice; that he has knowledge of the facts and matters relied upon in the Notice; and that all representations set forth therein are true and correct to the best of his knowledge, information, and belief.

Richard A. Batie  
Richard A. Batie  
Manager, Shortline Development

Subscribed and sworn to before me the 14th day of November, 2002.

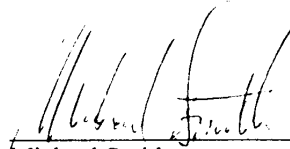


Leslie H. Flores  
Notary Public

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY  
NO. AB-6 (Sub No. 399X)

**CERTIFICATION**

I hereby certify that (1) no formal complaint filed by a user of rail service on this line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line is pending with the Board or any U.S. District Court or has been decided in favor of a complainant within the last two (2) years; (2) service of notice upon the U.S. Department of the Interior, National Park Service, Recreation Park Service, Land Resource Division; the Department of Defense, Military Traffic Management Command; the Nebraska Public Service Commission; the Nebraska Department of Roads; and the Chief Forest Service, U.S. Department of Agriculture was accomplished by mailing a copy thereof on October 25, 2002; (3) the environmental and historic reports were serviced upon the agencies identified in 49 C.F.R. § 1105.7(b) and the State Historic Preservation Offices on October 25, 2002; (4) service of notice upon the State Clearinghouses was accomplished by mailing a copy thereof on October 25, 2002; and (5) the publication requirements of 49 C.F.R. § 1105.12 have been complied with, to wit: publication of notice was accomplished on October 29, 2002 in the Fairbury Journal-News. affidavits of publication are attached.

  
\_\_\_\_\_  
Michael Smith  
Freeborn & Peters  
311 S. Wacker Dr. Suite 3000  
Chicago, Illinois 60606-6677  
Phone: (312) 360-6724  
Fax: (312) 360-6598

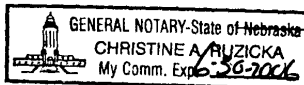
Date: November 18, 2002

PROOF OF PUBLICATION  
THE FAIRBURY JOURNAL-NEWS.

STATE OF NEBRASKA, Jefferson County, ss.

**E. A. Arnold** being first duly sworn on oath deposes and says that he is **Publisher** of **THE FAIRBURY JOURNAL-NEWS** that he has actual knowledge of the facts hereinafter set forth; that the printed notice hereto attached was published in *The Fairbury Journal-News* once each week, ~~successive weeks on the same day of each week; that the first publication was on~~ October 29, 2002; and the last publication was on October 29, 2002; that said *The Fairbury Journal-News* is printed and published and has a general circulation in Jefferson County, Nebraska; that it has a bona fide circulation in excess of 300 copies weekly and has been published within said county for 52 successive weeks prior to the publication of this notice; and that it is a legal newspaper under the statutes of the State of Nebraska.

Subscribed and sworn to before me this 7 day of November, 2002.



*Christine A. Ruzicka*  
Notary Public

My commission expires June 30, 2006.

Publication fee 66 lines of 8 point type 1 times

\$ 29.70

NOTICE OF INTENT TO ABANDON

The Burlington Northern and Santa Fe Railway Company gives notice that on or after November 14, 2002, it intends to file with the Surface Transportation Board, Washington D.C. 20423, an abandonment notice of exemption under 49 CFR 1152 Subpart F -- Exempt Abandonments permitting the abandonment of or discontinuance of service on 9.48 miles of railroad line between railroad milepost 127.83 near Reynolds and milepost 117.03 in Endicott, which line segment traverses through United States Postal Zip Codes 68429, 68360 and 68352 in Jefferson County, Nebraska. The proceeding will be docketed as No. AB-6 (Sub-No. 399X).

The Board's Section of Environmental Analyses (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, N.W., Washington D.C. 20423-0001 or by calling that office at 202-565-1538.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street, N.W., Washington, D.C. 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Services at 202-565-1592. Copies of any comments or requests for conditions should be served on the applicant's representative Michael Smith, Freeborn & Peters, 311 S. Wacker Drive, Suite 3000, Chicago, Illinois 60606-6677-telephone (312)360-6724.



BEFORE THE  
SURFACE TRANSPORTATION BOARD

In the Matter of The  
Burlington Northern and Santa Fe  
Railway Company  
Notice of Exemption to Abandon  
Its Line of Railroad Between M.P.  
127.83 near Reynolds, Nebraska  
and M.P. 117.03 near Endicott,  
Nebraska

Docket No. AB-6  
(Sub No. 399X)

**ENVIRONMENTAL REPORT**

The following information is submitted to the Surface Transportation Board by The Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the Board's reporting requirements as set forth in 49 C.F.R. § 1105.7 for the purpose of assisting the Board's preparation of an environmental document regarding BNSF's Notice of Exemption for abandonment of its line between M.P. 127.83 near Reynolds, Nebraska and M.P. 117.03 near Endicott, Nebraska, total distance of 10.8 miles.

**(1) Proposed action and Alternatives:** Describe the proposed action, including commodities transported, the planned disposition (if any) of any railline and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF seeks to abandon and discontinue service of the line. A map of the line is attached as Exhibit A.

**(2) Transportation system:** Describe the effect of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

The proposed abandonment will have no effect on local traffic since there has been no local traffic in recent years. All overhead traffic will be rerouted via Table Rock, NE approximately 70 miles east of the subject line.

**(3) Land Use:**

(i) Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

The proposed abandonment should be consistent with local land use plans. The Jefferson County Commissioner has been notified and as of the date of this report, has not responded. See Exhibit B.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agriculture land.

The proposed abandonment will have no adverse impact on the adjacent prime agricultural lands. See Exhibit C, letter from the Natural Resource Conservation Service, Fairbury Field Office.

(iii) If any action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9

N/A

(iv) If the proposed action is abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10906 and explain why.

The Jefferson County Commissioner has been notified and as of the date of this report, has not responded. See Exhibit B.

**(4) Energy:**

(i) Describe the effect of the proposed action on transportation of energy.

To the best of BNSF's knowledge there are no undeveloped energy resources such as oil, natural gas or coal in the vicinity of this line.

(ii) Describe the effect of the proposed action on recyclable commodities.

This abandonment and discontinuance will not adversely affect movement or recovery of recyclable commodities since it will affect no local traffic and all overhead traffic will be rerouted via Table Rock, NE.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

This abandonment will not result in any appreciable increase or decrease in overall energy efficiency since no local traffic is affected and all overhead traffic will be rerouted via Table Rock, NE.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in the energy consumption and show the data and methodology used to arrive at the figure given.

There will be no diversions of any local traffic. All overhead traffic will be rerouted via Table Rock, NE; however, BNSF does not anticipate any resulting net change in energy consumption of any significance. The reroute of overhead traffic may result in a new train start. The reroute mileage is approximately 160 miles shorter for bridge traffic.

(5) Air:

(i) If the proposed action will result in either:

(A). An increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of the line effected by the proposed, or

No.

(B). An increase in rail yard activity of at least 100% (measured by carload activity), or

No.

(C). An average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

The action will not involve an increase in truck traffic of more than 10% or 50 vehicles a day on any affected road segment since there is no local traffic affected.

(ii) If the proposed action affects a Class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three train a day on any segment of rail line, or

(B) An increase in rail yard activity of at least 20% (measured by carload activity), or

(C) An average increase in truck traffic or more than 10-% of the average daily traffic of 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by State implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505) or in a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The proposed abandonment will not result in an increase of rail or truck traffic because no local traffic is affected. The overhead traffic between Reynolds and Endicott will be handled through Table Rock on a route that is approximately 160 miles shorter.

(iii) If the transportation of ozone depleting materials (such as nitrogen oxide and from) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

The proposed abandonment will not result in an increase of rail or truck traffic.

**(6) Noise:** If any of the thresholds identified in item (5)(c) of this section are surpassed, state whether the proposed action will cause:

(i) An incremental increase in noise levels of three decibels Ldn or more.

N/A

(ii) An increase to a noise level of 76 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities and nursing homes) in the project area and quantify the noise increase for those receptors if the thresholds are surpassed.

N/A

**(7) Safety:**

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad crossings).

This abandonment should have no adverse effect on health or public safety. The proposed abandonment will eliminate 9 public

crossings. There are 22 private crossings. During salvage operations on the line, precautions will be taken to ensure public safety, and contractors will be required to satisfy all applicable health and safety laws and regulations.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of and accidental release of hazardous materials.

Abandonment will not result in transportation of hazardous materials.

(iii) If there are any known hazardous waste site or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

There are no known hazardous waste site or sites where there have been known hazardous materials spills on the right of way between Reynolds and Endicott, Nebraska (milepost 127.83 to 117.03).

**(8) Biological resources:**

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

No federally listed or proposed threatened or endangered species are expected to occur within the project area. See exhibit D, letter from the U.S. Fish and Wildlife Service. There are no documented occurrences of threatened or endangered species on or adjacent to the Reynolds-Endicott right of way. See Exhibit E, letter from the Nebraska Game and Parks Commission.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

The project does not appear to impact federal fish and wildlife management facilities. See exhibit D, letter from the U.S. Fish and Wildlife Service. Two tracts, which together make up the Rose Creek Wildlife Management Area, lie at about the mid-point of the corridor being considered for the abandonment. See Exhibit E, letter from the Nebraska Game and Parks Commission.

**(9) Water:**

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

The proposed abandonment should be consistent with applicable Federal, State and local water quality standards. An NPDES permit would be required for storm water discharges from construction sites where five or more acres of land are graded and disturbed. See Exhibit F, Letter from the State of Nebraska Department of Environmental Quality. Simply removing tracks and ties without grading the right-of-way would not trigger the need for an NPDES permit. See Exhibit F, Letter from the State of Nebraska Department of Environmental Quality.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year floodplains will be affected. Describe the effects.

A Section 404 permit will not be required. See Exhibit G, letter from the Army Corps of Engineers. The right of way is adjacent to the

floodplain of Rose Creek, a tributary of the Little Blue River. See Exhibit

E, letter from the Nebraska Game and Parks Commission.

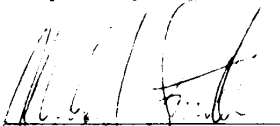
(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.

An NPDES permit will not be required for track and tie removal from the 10.8 mile segment of railroad line being abandoned. See Exhibit F, Letter from the State of Nebraska Department of Environmental Quality.

**(10) Proposed Mitigation:** Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Any salvage operations that may result will be in accordance with BNSF's general practice of requiring its private contractors to comply with all federal, state and local laws and regulations pertaining to the environment, including, but not limited to noise, air quality, water quality, and items of archaeological significance. The project itself should mitigate the environmental effects of continuing active rail operations in the project area.

Respectfully Submitted,



Michael Smith  
Freeborn & Peters  
311 S. Wacker Dr. Suite 3000  
Chicago, Illinois 60606-6677  
Phone: (312) 360-6724  
Fax: (312) 360-6598

Date: November 18, 2002



BEFORE THE  
SURFACE TRANSPORTATION BOARD

In the Matter of The  
Burlington Northern and Santa Fe  
Railway Company  
Notice of Exemption to Abandon  
Its Line of Railroad Between M.P.  
127.83 near Reynolds, Nebraska  
and M.P. 117.03 near Endicott,  
Nebraska

Docket No. AB-6  
(Sub No. 399X)

**HISTORICAL REPORT**

The following is submitted to the Surface Transportation Board by The  
Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the  
Board's reporting requirements set forth in 49 C.F.R. § 1105.8 for the purpose of assisting  
the Board's environmental and historical assessment regarding BNSF's Notice of  
Exemption to abandon its line of railroad between M.P. 127.83 near Reynolds, Nebraska  
to M.P. 117.03 near Endicott, Nebraska, a total distance of 10.8 miles.

(1) A U.S.G.S. topographic map (or alternate map drawn to scale and sufficiently  
detailed to show buildings and other structures in the vicinity of the proposed action)  
showing the location of the proposed action, and the locations and approximate  
dimensions of the railroad structures that are 50 years old or older and are part of the  
proposed action;

One copy of a U.S.G.S. Topographical map has been provided to the Nebraska  
State Historical Society and one copy is being provided to the Surface Transportation  
Board's Section of the Environmental Analysis upon filing of this Report.

(2) A written description of the right-of-way (including approximate widths, to  
the extent known) and the topography and urban and/or rural characteristics of the  
surrounding area:

The right of way is rural in nature. Major crops grown in this area include corn, wheat, soybeans and milo. The adjacent land is generally flat to rolling. The line follows tributaries of the Little Blue River going from Reynolds easterly towards Endicott. These tributaries flow into the Little Blue River near Endicott. The 2000 census shows a population of 88 at Reynolds and 139 at Endicott. Both populations have declined from the 1990 census of 104 at Reynolds and 163 at Endicott. The right of way is 100 feet wide except for the station ground property at Reynolds and Endicott.

(3) Good quality photographs (actual photographic prints, not photocopies) or railroad structures on the property that are 50 years old or older and of the immediately surrounding area;

There are no railroad structures that are 50 years or older in the immediate area of the abandonment other than bridges. Photographs of the eight bridges that are 50 years or older are attached to this report. See Exhibit H.

(4) The date(s) of construction of the structures, and the date(s) and extent of any major alterations, to the extent such information is known;

The dates of construction of the bridges are included with the photographs. See Exhibit H.

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

The right of way was acquired by The Republican Valley Railroad Company and The Chicago, Burlington and Quincy Railroad Company. The majority of the right of way was acquired by various deeds from 1880 through 1907. The Chicago, Burlington and Quincy Railroad Company (CBQ) is a predecessor of the Republican Valley Railroad Company. In 1970 CBQ merged with The Northern Pacific Railway Company and The

Great Northern Railway Company to become The Burlington Northern Railroad Company (BN). In 1995 The Atchison Topeka and Santa Fe Railway Company merged with BN to become The Burlington Northern and Santa Fe Railway Company.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is to be historic;

Documents in BNSF's possession concerning this abandonment may include alignment maps showing the right-of-way and/or station maps. Such documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

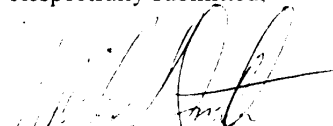
(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archaeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

To the best of BNSF's knowledge, the proposed abandonment should have no appreciable effects on any known sites or properties listed, or eligible for listing in the National Register of Historic Places. BNSF is not aware of any unique sites or structures with significant historical associations. There are five archaeological sites (25JF2, 25JF6, 25JF7, 25JF10 and 25JF503) that the railroad line may pass over or near. However, the Nebraska State Historical Society does not anticipate any adverse effect on these sites or any historic properties as a result of the abandonment. See Exhibit I, letter from the Nebraska State Historical Society.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archaeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

BNSF is not aware of any known prior subsurface ground disturbance or fill or any other environmental conditions (naturally occurring or man-made) that might affect the recovery of archaeological resources.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Smith", is written over a horizontal line.

Michael Smith  
Freeborn & Peters  
311 S. Wacker Dr. Suite 3000  
Chicago, Illinois 60606-6677  
Phone: (312) 360-6724  
Fax: (312) 360-6598

Date: November 18, 2002

**CERTIFICATION PURSUANT TO 49 C.F.R.1105.7(c)**

The Burlington Northern and Santa Fe Railway Company ("BNSF") by and through its authorized representative, Michael Smith, certifies that on October 25, 2002, BNSF sent copies of the foregoing Environmental and Historical Reports by first class mail to the following agencies:

Ms. Victoria Rutson  
Chief, SEA  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423-0001

L. Robert Puschendorf  
Deputy State Historic Preservation Officer  
State Historic Preservation Office  
Nebraska State Historical Society  
P.O. Box 82554  
Lincoln, NE 68501-2554

U.S. Department of the Interior  
National Park Service  
Land Resource Division  
1849 C Street, N.W.  
Washington, DC 20240

Bureau of Land Management  
Wyoming State Office  
5353 Yellowstone Road  
P.O. Box 1828  
Cheyenne, WY 82003-1828

Nebraska Game and Parks Commission  
Director  
P.O. Box 30370  
Lincoln, NE 68503-0370

Jim Fuller  
Parks Division  
Nebraska Game and Parks Commission  
2200 N. 33<sup>rd</sup> Street  
Lincoln, NE 68503

Bruce Sackett  
Nebraska Game and Parks Commission  
2200 North 33<sup>rd</sup> Street  
Lincoln, NE 68503

Richard Niemeier  
Jefferson County Commissioner  
411 4<sup>th</sup> Street  
Fairbury, NE 68352-2536

Sandra Stelling  
Jefferson County Clerk  
411 4<sup>th</sup> Street  
Fairbury, NE 68352

John Mayberger  
Resource Conservationist  
Natural Resources Conservation Service  
Fairbury Service Center  
305 5<sup>th</sup> Street  
Fairbury, NE 68352-2530

Michael Rabbe  
U.S. Army Corps of Engineers  
Omaha District  
Nebraska Regulatory Office - Kearney  
1430 Central Avenue, Suite 4  
Kearney, NE 68847-6856

Dan Rosenthal  
Public Transportation Engineer  
Nebraska Department of Roads  
PO Box 94759  
Lincoln NE 68509

U.S. Fish & Wildlife Service  
Regional Director  
P.O. Box 25486  
Denver, CO 80025

John Cochnur  
Acting Nebraska Field Supervisor  
U.S. Fish & Wildlife Service  
Ecological Services  
203 West Second Street  
Grand Island, NE 68801

Jim Yeggy  
NPDES Permits Unit  
Water Quality Division  
Nebraska Department of  
Environmental Quality  
1200 "N" Street, Suite 400  
PO Box 98922  
Lincoln, Nebraska 68509-8822

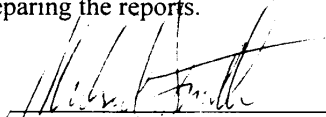
Steve Chick  
State Conservationist  
Natural Resources Conservation Service  
Federal Building, 100 Centennial Mall No.  
Lincoln, NE 68508-3866

Nebraska Public Service Commission  
300 The Atrium  
1200 N Street  
P.O. Box 94927  
Lincoln, NE 68509-4927

U.S. Environmental Protection Agency  
Region 7  
901 North 5<sup>th</sup> St.  
Kansas City, KS 66101

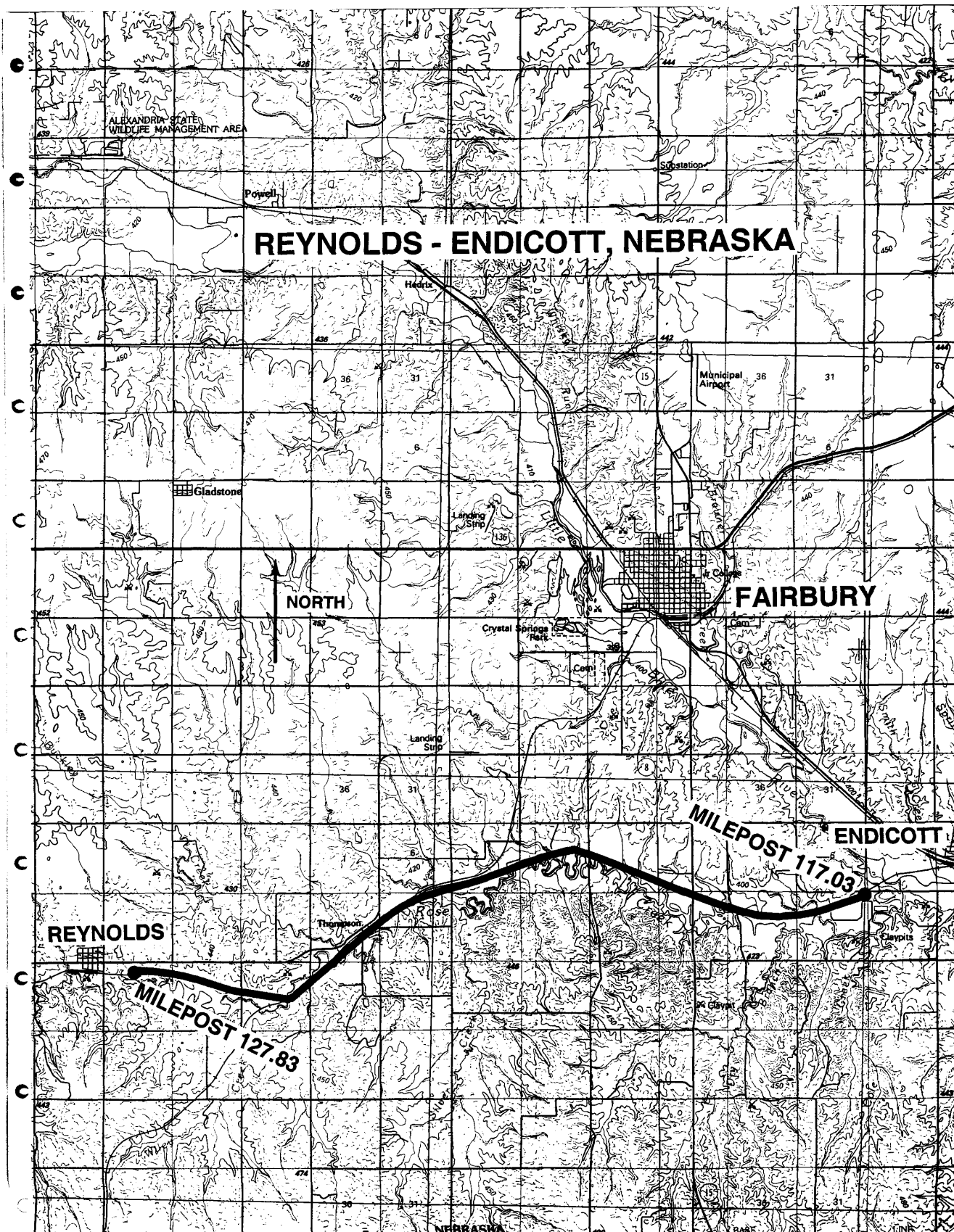
Edward McKay  
National Geodetic Survey  
NOAA - SSMC3  
1315 East-West Highway  
Silver Spring, MD 20914

The required cover letters (pursuant to 49 C.F.R. 1105.11) are attached hereto. BNSF has consulted with all appropriate agencies in preparing the reports.

  
\_\_\_\_\_  
Michael Smith  
Freeborn & Peters  
311 S. Wacker Dr. Suite 3000  
Chicago, Illinois 60606-6677  
Phone: (312) 360-6724  
Fax: (312) 360-6598

Date: November 18, 2002

A





**B**

Freeborn & Peters

July 31, 2002

Richard Niemeier  
Jefferson County Commissioner  
411 4<sup>th</sup> Street  
Fairbury, NE 68352-2536

*Attorneys at Law*

311 South Wacker Drive  
Suite 3000  
Chicago, Illinois  
60606-6677  
Tel 312.360.6000

Brian Nettles  
Paralegal  
Direct 312.360.6336  
Fax 312.360.6596  
bnettl@  
freebornpeters.com

**Re:   *The Burlington Northern and Santa Fe Railway Company Abandonment  
of Reynolds, Nebraska to Endicott, Nebraska***

Dear Mr. Niemeier:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 10.8 miles of railroad line between Milepost 127.83 in Reynolds, Nebraska and Milepost 117.03 in Endicott, Nebraska.

As part of the environmental report BNSF needs to know whether or not the proposed action is consistent with local land use plans and if there are any alternate public uses for the corridor such as a recreational trail.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. Please provide this information by August 30, 2002. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



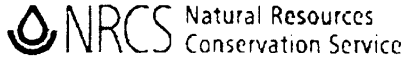
Brian Nettles

/bn  
Enclosure

**C**

C

United States Department of Agriculture



Fairbury Field Office  
305 Fifth Street  
Fairbury, NE 68352

<http://www.ne.nrcs.usda.gov>

August 5, 2002  
Brian Nettles  
Freeborn & Peters  
311 South Wacker Drive  
Suite 3000  
Chicago, IL 60606-6677

**Re: The Burlington Northern and Santa Fe Railroad Company Abandonment of Reynolds, Nebraska to Endicott, Nebraska**

Dear Mr. Nettles:

The proposed abandonment, including the removal of rails and ties, will have no adverse impact on the adjacent prime agricultural lands.

Please let me know if you need additional information.

Sincerely,

John Mayberger  
Resource Conservationist

---

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment.

An Equal Opportunity Provider and Employer

**D**

E



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

Ecological Services  
Nebraska Field Office  
203 West Second Street  
Grand Island, Nebraska 68801

August 5, 2002

Mr. Brian Nettles  
Freeborn & Peters  
311 South Wacker Drive  
Suite 3000  
Chicago, IL 60606-6677

Dear Mr. Nettles:

This responds to your July 31, 2002, letter requesting comments from the U.S. Fish and Wildlife Service on a proposal by the Burlington Northern and Santa Fe Railroad Company to abandon 10.8 miles of railroad line between Milepost 127.83 in Reynolds, Nebraska and Milepost 117.03 in Endicott, Nebraska. These comments are provided as technical assistance and predevelopment consultation and do not constitute a Service report under authority of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) on any required Federal environmental review or permit.

The Service has responsibility, under a number of authorities, for conservation and management of fish and wildlife resources. Chief among the federal statutes with which our office deals are the Coordination Act, Endangered Species Act of 1973, and the National Environmental Policy Act. The Coordination Act requires that fish and wildlife resources be given equal consideration in the planning, implementation, and operation of Federal and federally funded, permitted, or licensed water resource developments. Section 7 of the Endangered Species Act of 1973 outlines procedures for interagency consultations on the effects of Federal actions on federally listed threatened and endangered species. The Service participates in scoping and review of actions significantly affecting the quality of the environment under authority of the National Environmental Policy Act. In addition to these statutes, the Service has authority under several other legislative, regulatory, and executive mandates to promote conservation of fish and wildlife resources for the benefit of the public.

In Nebraska, the Service has special concerns for migratory birds, endangered and threatened species, and other important fish and wildlife resources. We also are concerned about any impacts on Federal and State wildlife refuges and management areas and other public lands, as well as to other areas that support sensitive habitats. Habitats frequently used by important fish and wildlife resources are wetlands, streams, and riparian (streamside) woodlands. Special attention is given to proposed developments that include modification of wetlands, or stream alteration, or contamination of important habitats. The Service recommends ways to avoid, minimize, rectify, reduce, or compensate for damaging impacts to important fish and wildlife resources and their habitats that may be attributed to land and water resource development proposals.



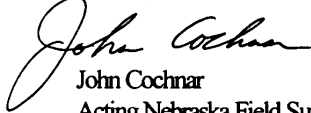
We have reviewed the plans for the proposed project and offer the following comments:

- a. The proposed project does not appear to impact federal fish and wildlife management facilities.
- b. No federally listed or proposed threatened or endangered species are expected to occur within the project area.

Based upon the submitted information, we have no objection to the proposal as currently planned. However, should the plans be modified, we recommend that you reinitiate coordination with this office.

Should you have any further questions, please contact Mr. Wally Jobman within our office at (308)382-6468, extension 16. Thank you for the opportunity to offer comments.

Sincerely,



John Cochran  
Acting Nebraska Field Supervisor

cc: NGPC; Lincoln, NE (Attn: Julie Godberson)

F



## Nebraska Game and Parks Commission

2200 N. 33rd St. / P.O. Box 30370 / Lincoln, NE 68503-0370

Phone: 402-471-0641 / Fax: 402-471-5528 / <http://www.ngpc.state.ne.us/>

August 23, 2002

Brian Nettles  
Freeborn & Peters  
311 South Wacker Drive  
Chicago IL 60606-6677

**RE: Burlington Northern Santa Fe Railway Company abandonment;  
Reynolds to Endicott segment, Jefferson County.**

Dear Mr. Nettles:

This responds to your request for comments by Nebraska Game and Parks Commission about the proposed action identified above. The right-of-way being evaluated is 10.8 miles in length, about half which lies within, or adjacent to, the floodplain of Rose Creek, a tributary of the Little Blue River.

Our review of the Nebraska Natural Heritage database indicates no documented occurrence of threatened/endangered species on or adjacent to the Reynolds-Endicott right-of-way. Two tracts, which together make up Rose Creek Wildlife Management Area, lie at about the mid-point of the corridor being considered for abandonment. As shown on the enclosed aerial photograph, BNSF right-of-way forms the northerly boundary of the WMA west unit, while the right-of-way runs through the 0.5 mile wide east unit.

We appreciate the opportunity to review the BNSF proposal for right-of-way abandonment. Please advise if further review is required at this time.

Sincerely,

Bruce K. Sackett  
Division Administrator  
Realty/Environmental Services Division

BKS:pz

CC: Brad Sietz, NGPC  
Julie Godberson, NGPC  
Encl. (2)

ALEXANDRIA STATE  
WILDLIFE MANAGEMENT AREA

# REYNOLDS - ENDICOTT, NEBRASKA

Municipal Airport 36 31

Gladstone

NORTH

FAIRBURY

ENDICOTT

REYNOLDS

MILEPOST 127.83

MILEPOST 117.03

NEBRASKA

An aerial photograph of a landscape, likely a wetland or marsh area, with a grid overlay. A winding road or path is visible on the left side. The image is dark and grainy, with some lighter patches indicating water or vegetation. A white label is in the bottom right corner.

JEFFERSON COUNTY  
Rose Creek WMA - 649±Acres

F

# STATE OF NEBRASKA



**Mike Johanns**  
Governor

## DEPARTMENT OF ENVIRONMENTAL QUALITY

**Michael J. Linder**

Director

Suite 400, The Atrium  
1200 'N' Street  
P.O. Box 98922  
Lincoln, Nebraska 68509-8922  
Phone (402) 471-2186  
FAX (402) 471-2909

August 6, 2002

Brian Nettles  
Freeborn & Peters  
311 South Wacker Drive  
Chicago, IL 60606-6677

RE: NPDES permitting requirements for railroad line abandonment to be carried-out by the Burlington Northern and Santa Fe Railway Company

Dear Mr. Nettles:

From the description provided in your letter of July 31, 2002, it appears that an NPDES permit will not be required for track and tie removal from the 10.8 mile segment of railroad line being abandoned.

NPDES permit coverage is required for storm water discharges from construction sites where 5 or more acres of land are graded or disturbed. This size threshold will be reduced to 1 acre on March 10, 2003. However, simply removing tracks and ties without grading the right-of-way would not trigger the need for an NPDES permit pursuant to these requirements.

If you have any questions, please contact me at 402/471-2023.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jim Yeggy".

Jim Yeggy, Program Specialist  
NPDES Permit Unit

c: NPDES storm water applicability file

**G**





**DEPARTMENT OF THE ARMY**  
CORPS OF ENGINEERS, OMAHA DISTRICT  
NEBRASKA REGULATORY OFFICE - KEARNEY  
1430 CENTRAL AVENUE STREET, SUITE 4  
KEARNEY, NEBRASKA 68847-6856

REPLY TO  
ATTENTION OF:

August 13, 2002

Mr. Brian Nettles  
Freeborn & Peters  
311 South Wacker Drive, Suite 3000  
Chicago, Illinois 60606-6677

Dear Mr. Nettles:

This letter is in regard to the proposed abandonment by the Burlington Northern and Santa Fe Railway Company of 10.8 miles of track between Milepost 127.83 in Reynolds, Nebraska and Milepost 117.03 in Endicott, Nebraska.

After reviewing the materials you provided, the project will not require a Department of the Army permit. If, in the future, you plan to place fill material in any waters of the United States please provide this office with an application for review for possible permit requirements. Although a Department of the Army permit pursuant to Section 404 of the Clean Water Act and/or Section 10 of the River and Harbor Act is not required for this project, this does not eliminate the requirement that you obtain other applicable Federal, State, Tribal and/or Local permits as required.

If you have any questions regarding this matter, please feel free to contact Mr. Keith Tillotson at (308) 234-1403 and refer to file number NE 02-11038.

Sincerely,

*for* Michael Rabbe  
Nebraska State Program Manager

H

Beatrice Sub

Milepost: 126.16

Built: 1905

Type: Open Deck

Length: 24'

Height: 15'

Obstacle: Road



Beatrice Sub

Milepost: 126.16

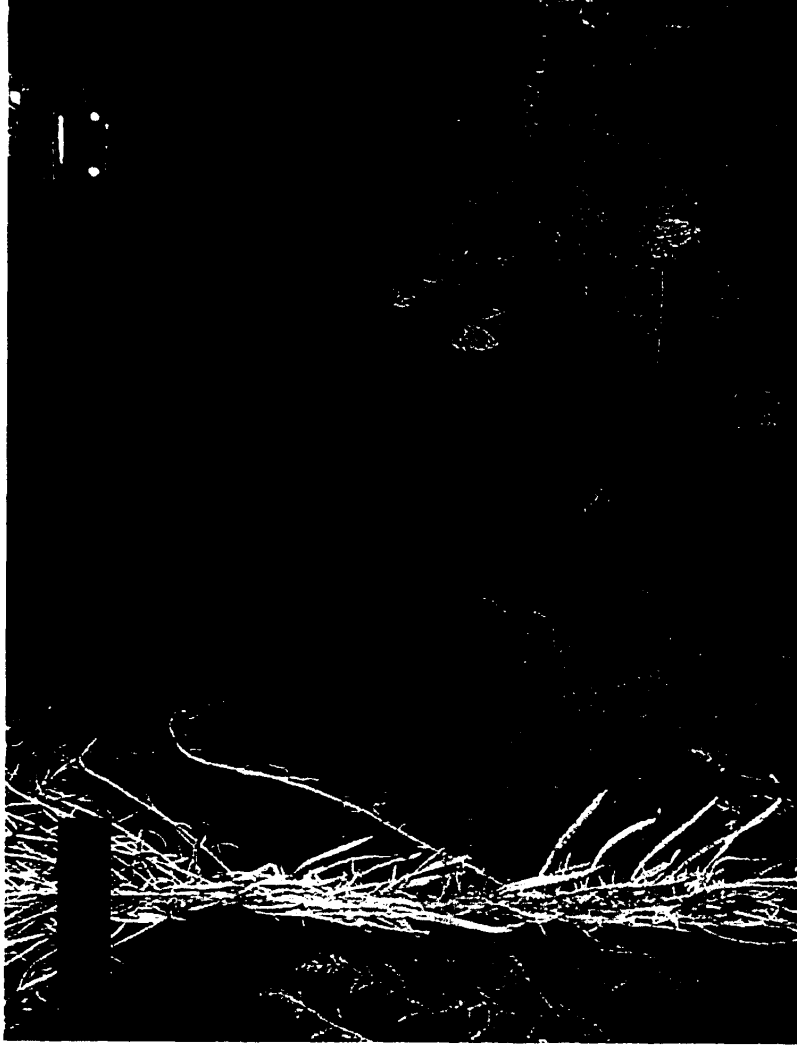
Built: 1905

Type: Open Deck

Length: 24'

Height: 15'

Obstacle: Road



Beatrice Sub

Milepost: 125.45

Built: 1904

Type: Open Deck

Length: 213'

Height: 33'

Obstacle: Water



Beatrice Sub

Milepost: 125.45

Built: 1904

Type: Open Deck

Length: 213'

Height: 33'

Obstacle: Water



Beatrice Sub

Milepost: 125.45

Built: 1904

Type: Open Deck

Length: 213'

Height: 33'

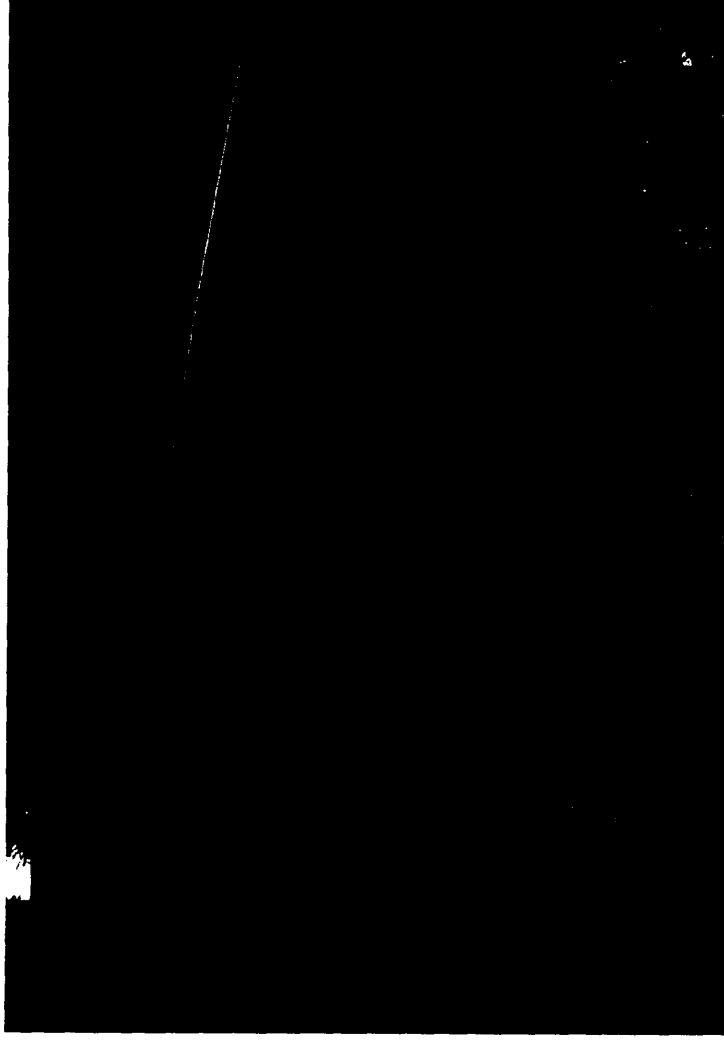
Obstacle: Water



Milepost: 125.45  
Built: 1904  
Type: Open Deck

### Beatrice Sub

Length: 213'  
Height: 33'  
Obstacle: Water





Beatrice Sub

Milepost: 124.94

Built: 1921

Type: Ballast Deck

Length: 107'

Height: 22'

Obstacle: Water



Beatrice Sub

Milepost: 124.94

Built: 1921

Type: Ballast Deck

Length: 107'

Height: 22'

Obstacle: Water



Milepost: 124.94

Built: 1921

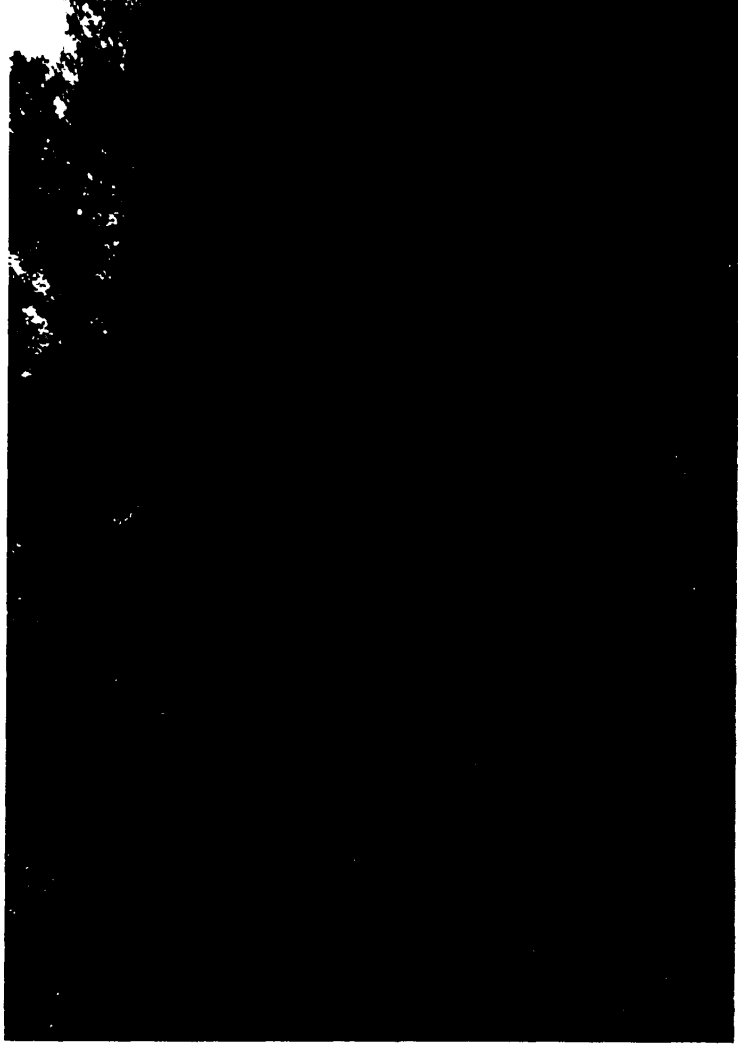
Type: Ballast Deck

### Beatrice Sub

Length: 107'

Height: 22'

Obstacle: Water



Beatrice Sub

Milepost: 124.94

Built: 1921

Type: Ballast Deck

Length: 107'

Height: 22'

Obstacle: Water



Beatrice Sub

Milepost: 124.71

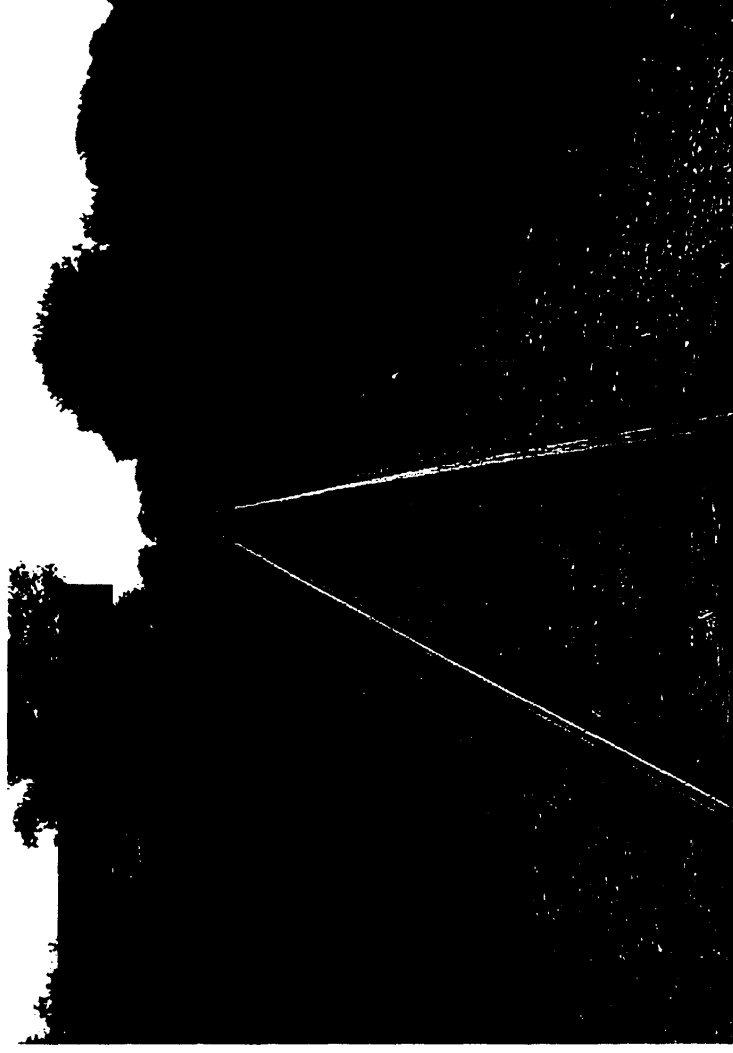
Built: 1904

Type: Ballast Deck/Open Deck

Length: 168'

Height: 28'

Obstacle: Water



Beatrice Sub

Milepost: 124.71

Built: 1904

Type: Ballast Deck/Open Deck

Length: 168'

Height: 28'

Obstacle: Water



Beatrice Sub

Milepost: 124.71

Built: 1904

Type:

Ballast Deck/Open Deck

Length: 168'

Height: 28'

Obstacle: Water



Beatrice Sub

Milepost: 124.71

Built: 1904

Type: Ballast Deck/Open Deck

Length: 168'

Height: 28'

Obstacle: Water





## Beatrice Sub

Milepost: 124.39

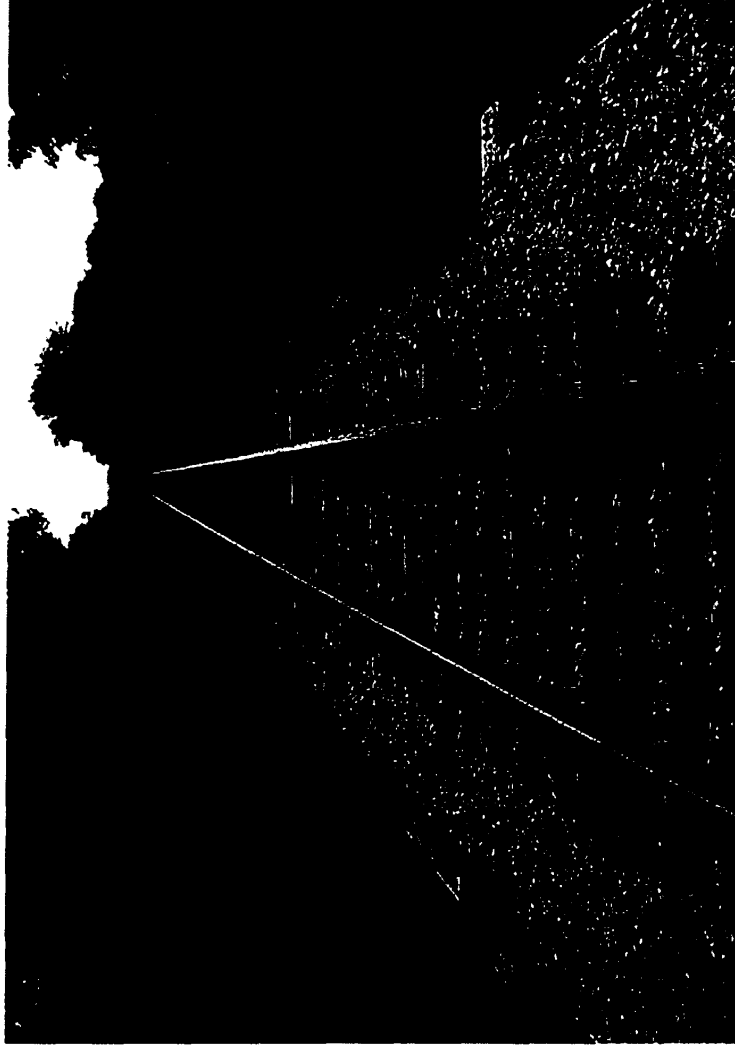
Built: 1913

Type: Open Deck

Length: 130'

Height: 30'

Obstacle: Water



Beatrice Sub

Milepost: 124.39

Built: 1913

Type: Open Deck

Length: 130'

Height: 30'

Obstacle: Water



Beatrice Sub

Milepost: 124.39

Built: 1913

Type: Open Deck

Length: 130'

Height: 30'

Obstacle: Water



Beatrice Sub

Milepost: 124.39

Built: 1913

Type: Open Deck

Length: 130'

Height: 30'

Obstacle: Water



Beatrice Sub

Milepost: 122.82

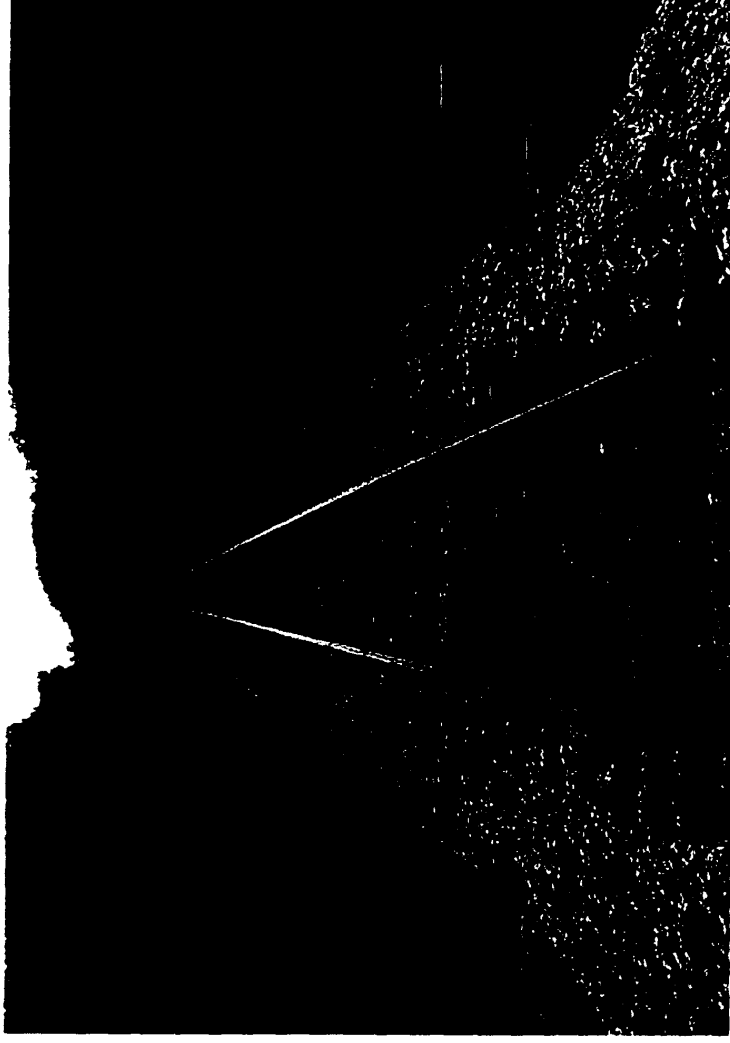
Built: 1923

Type: Ballast Deck

Length: 116'

Height: 24'

Obstacle: Water



Beatrice Sub

Milepost: 122.82

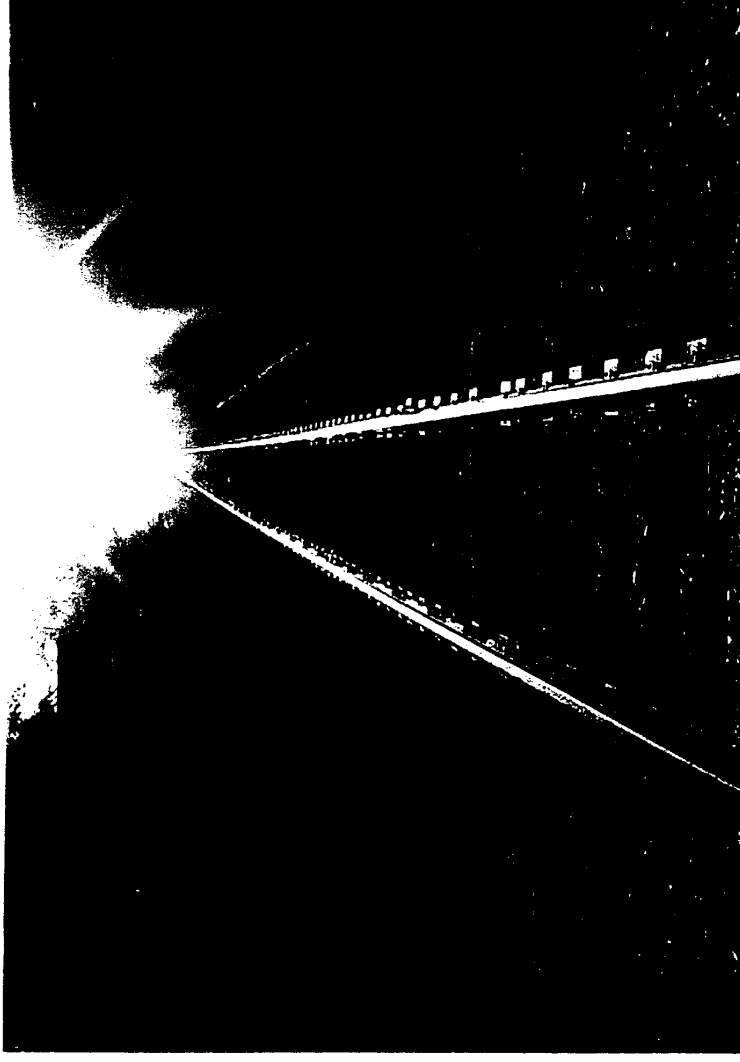
Built: 1923

Type: Ballast Deck

Length: 116'

Height: 24'

Obstacle: Water



Milepost: 122.82

Built: 1923

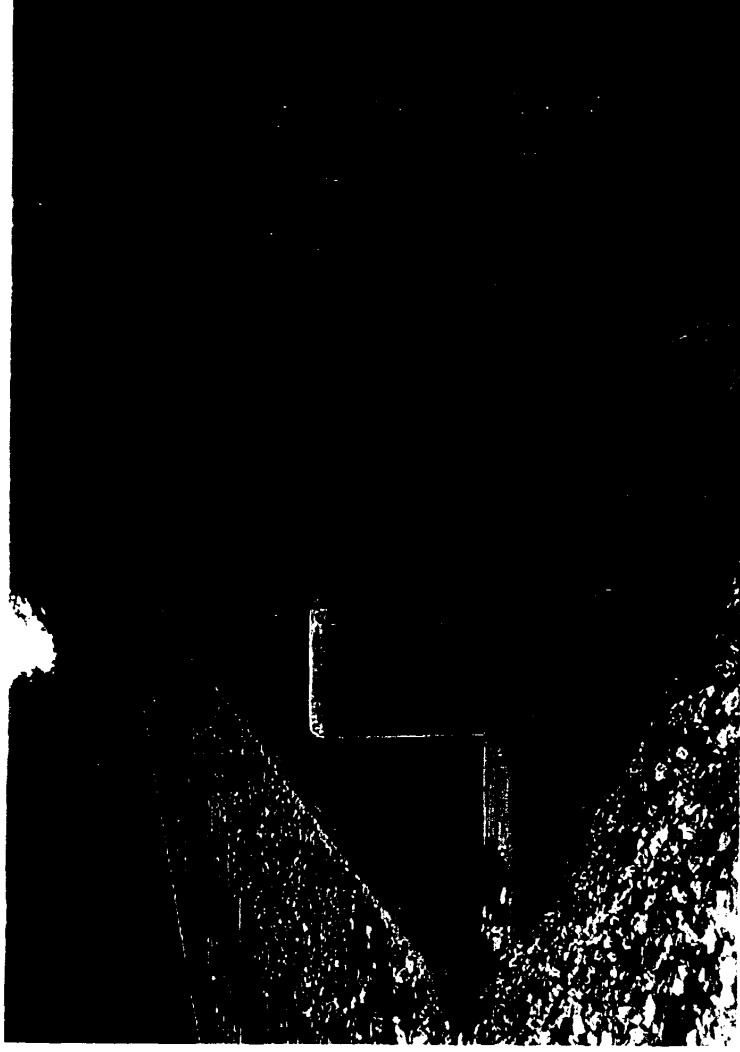
Type: Ballast Deck

## Beatrice Sub

Length: 116'

Height: 24'

Obstacle: Water



Beatrice Sub

Milepost: 122.82

Built: 1923

Type: Ballast Deck

Length: 116'

Height: 24'

Obstacle: Water





## Beatrice Sub

Milepost: 118.39

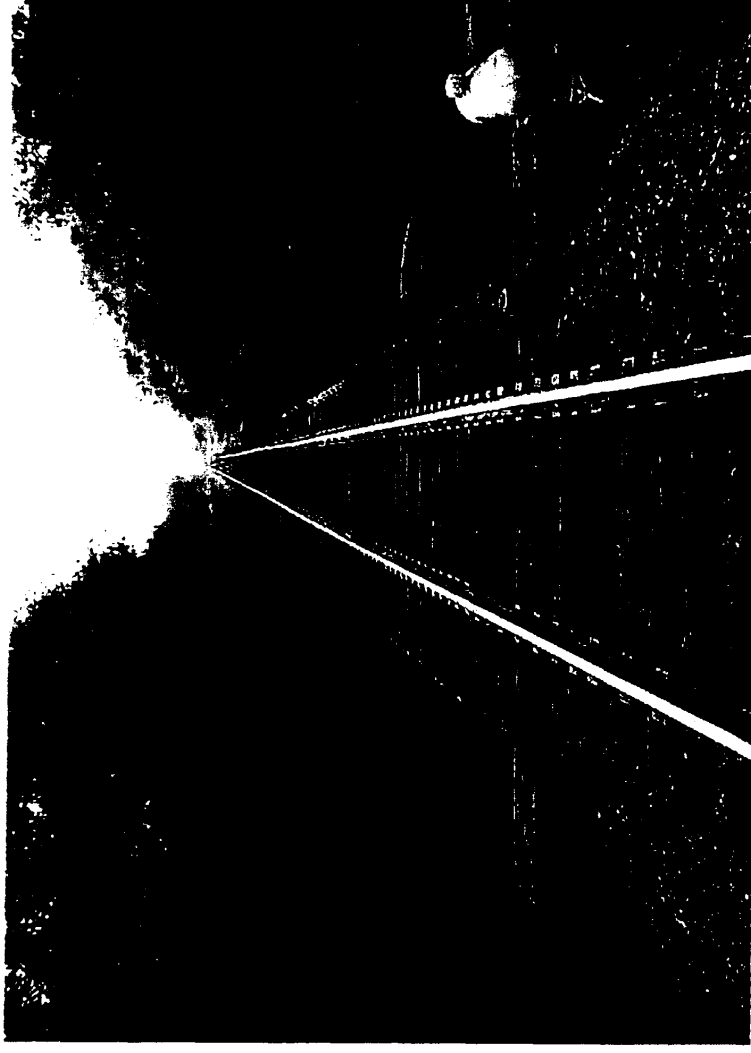
Built: 1904

Type: Open Deck

Length: 188'

Height: 30'

Obstacle: Water



## Beatrice Sub

Milepost: 118.39

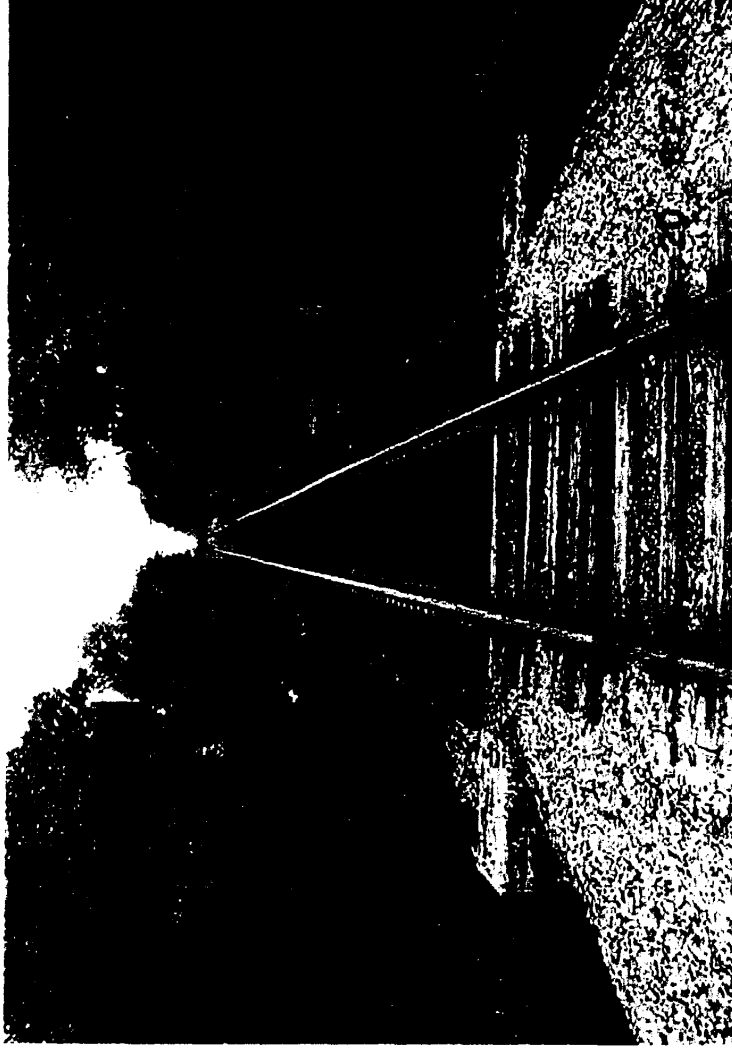
Built: 1904

Type: Open Deck

Length: 188'

Height: 30'

Obstacle: Water



Beatrice Sub

Milepost: 118.39

Built: 1904

Type: Open Deck

Length: 188'

Height: 30'

Obstacle: Water



Beatrice Sub

Milepost: 118.39

Built: 1904

Type: Open Deck

Length: 188'

Height: 30'

Obstacle: Water



Beatrice Sub

Milepost: 117.03

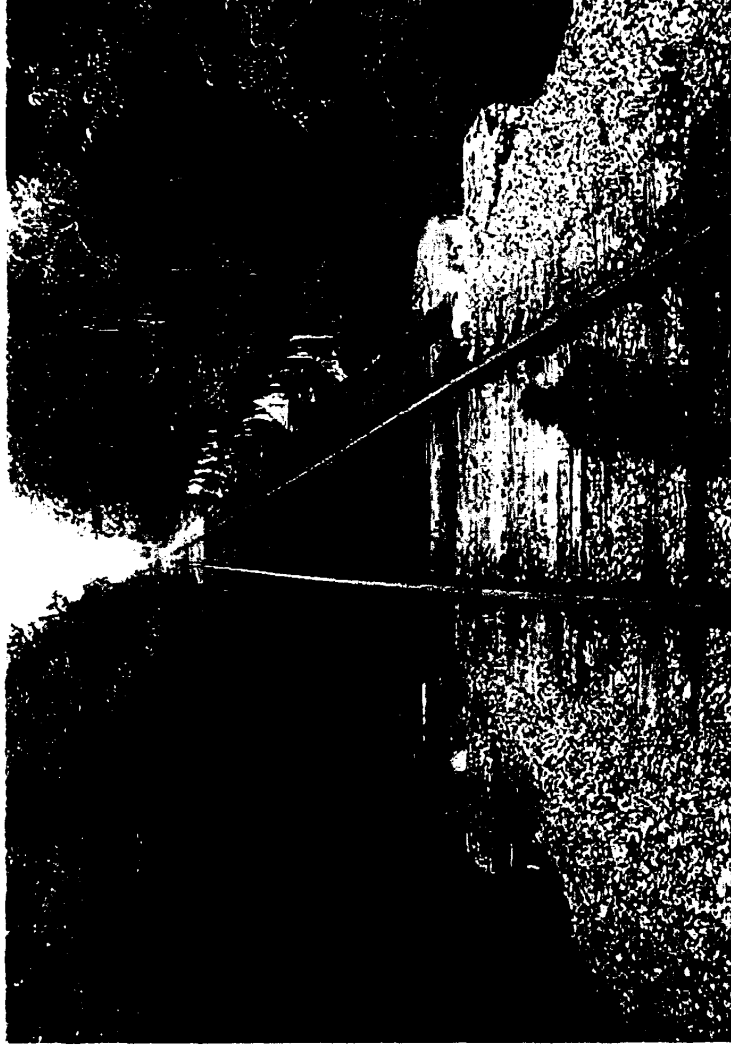
Built: 1904

Type: Open Deck

Length: 183'

Height: 25'

Obstacle: Water



Beatrice Sub

Milepost: 117.03

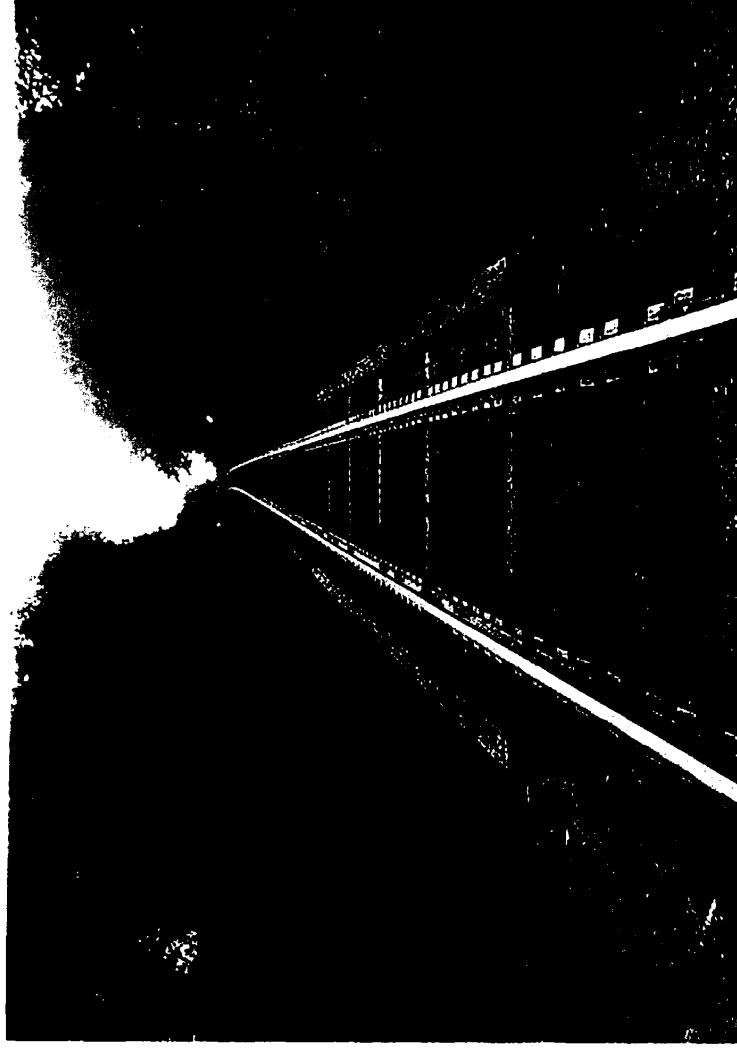
Built: 1904

Type: Open Deck

Length: 183'

Height: 25'

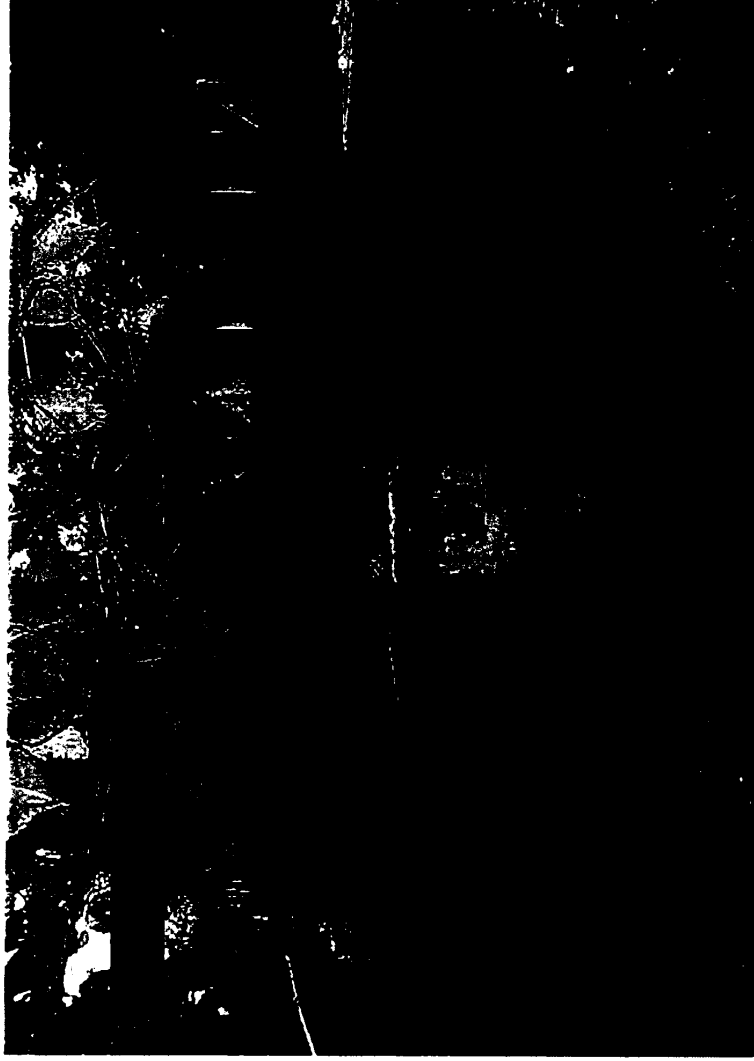
Obstacle: Water



Milepost: 117.03  
Built: 1904  
Type: Open Deck

### Beatrice Sub

Length: 183'  
Height: 25'  
Obstacle: Water



Beatrice Sub

Milepost: 117.03

Built: 1904

Type: Open Deck

Length: 183'  
Height: 25'  
Obstacle: Water





Beatrice Sub

Milepost: 126.16

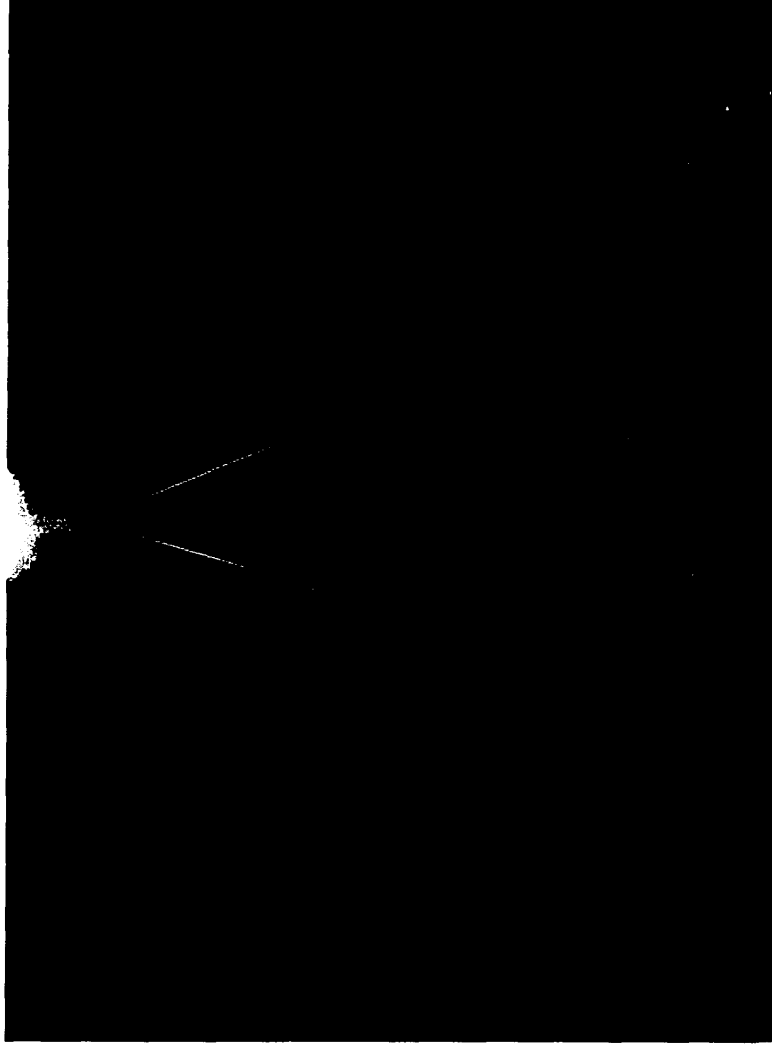
Built: 1905

Type: Open Deck

Length: 24'

Height: 15'

Obstacle: Road



Beatrice Sub

Milepost: 126.16

Built: 1905

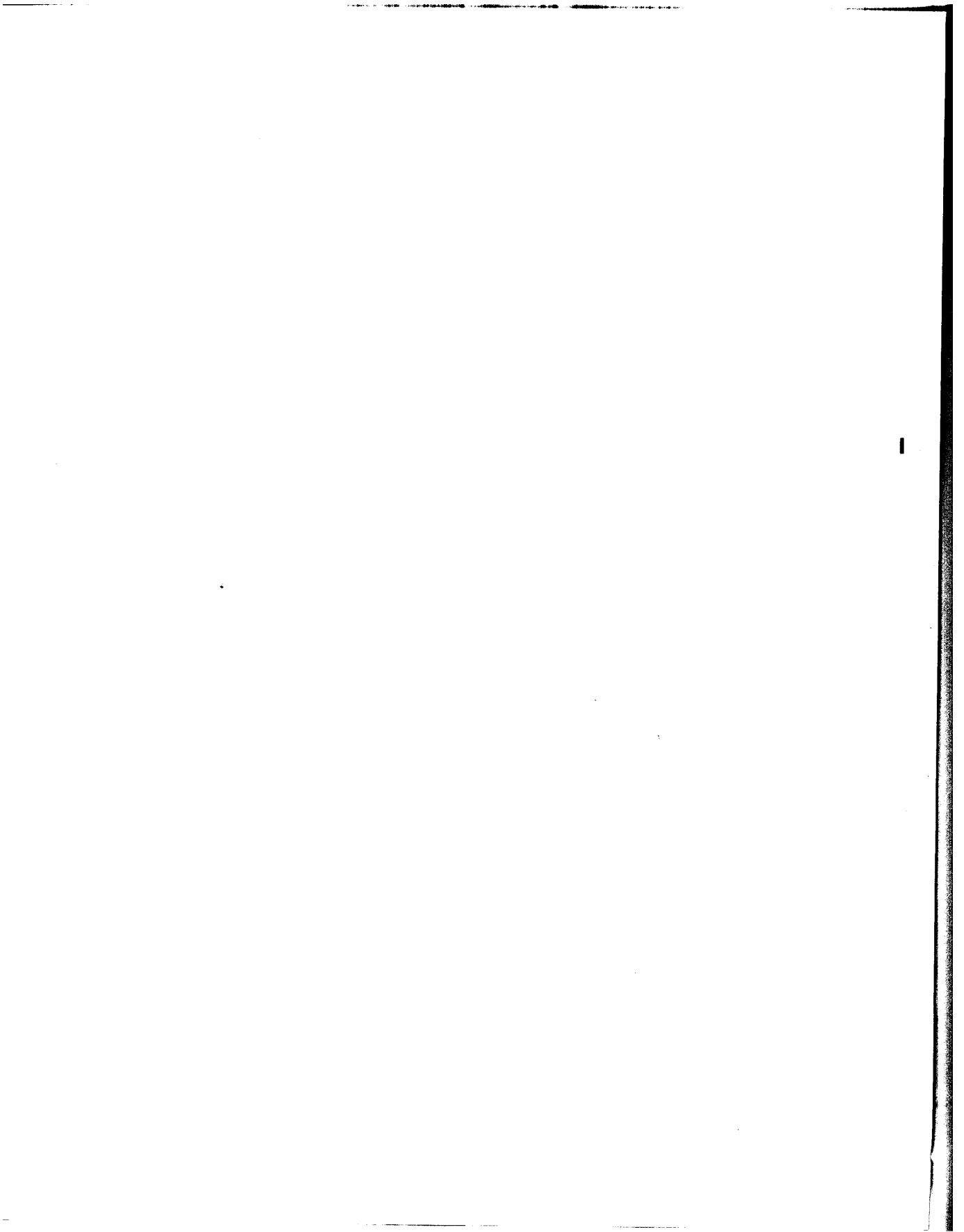
Type: Open Deck

Length: 24'

Height: 15'

Obstacle: Road







NEBRASKA STATE HISTORICAL SOCIETY

1500 R STREET, P.O. BOX 82554, LINCOLN, NE 68501-2554  
(402) 471-3270 Fax: (402) 471-3100 1-800-833-6747 www.nebraskahistory.org

September 25, 2002

Brian Nettles  
Freeborn & Peters  
311 South Wacker Drive, Suite 3000  
Chicago, IL 60606-6677

RE: The Burlington Northern and Santa Fe Railway Company Abandonment of  
Reynolds, Nebraska to Endicott, Nebraska  
HP #0209-008-01

Dear Mr. Nettles:

Thank you for submitting the referenced project proposal for our review and comment. Our comment on this project and its potential to affect historic properties is required by Section 106 of the National Historic Preservation Act of 1966, as amended, and implementing regulations 36 CFR Part 800.

There are 5 archaeological sites (25JF2, 25JF6, 25JF7, 25JF10 & 25JF503) that the railroad line passes over or very near. We do not anticipate an adverse effect on these sites. Earthmoving on the existing roadbed should not effect the sites any more than they have already been effected.

Given the information provided, in our opinion there will be no historic properties affected by the project as proposed. Therefore, in accordance with 36 CFR 800.4(d)(1), you may proceed with the project as planned. Should any changes in the project be made or in the type of funding or assistance provided through federal or state agencies, please notify this office of the changes before further project planning continues.

Please retain this correspondence and your documented finding in order to show compliance with Section 106 of the National Historic Preservation act, as amended. If you have any questions, please do not hesitate to contact Greg Miller at 402/471-4775.

Sincerely,

L. Robert Puschendorf  
Deputy State Historic Preservation Officer  
Nebraska State Historic Preservation Office

## Record Check

9/9/2002

SITENO	CONTEXT	NATREG	TWN	RNG	SECT	QUARTER
JF 2	NSC	UNK	T 1N	R 3E	S 7	
JF 6	UNK	UNK	T 1N	R 1E	S13	NW4NE4
JF 7	UNK	UNK	T 1N	R 1E	S12	NW4SE4
JF503	EA-ICE	UNK	T 1N	R 1E	S15	SW4SW4NE4
JF 10	AR	UNK	T 1N	R 3E	S 8	NW4

## **CODES FOR SITE RECORDS AND SURVEY REPORTS**

### **SITENO (Archaeological Site Number)**

LC = Lancaster County  
HN = Harlan  
NO = Nuckolls  
FT = Frontier

### **CONTEXT (Site Cultural Affiliation)**

CP = Central Plains Villagers  
CP-UPR = Central Plains Villagers, Upper Republican Phase  
CP-ITS = Central Plains Villagers, Itskari (Loup River) Phase  
CP-NEB = Central Plains Villagers, Nebraska Phase  
CP-STH = Central Plains Villagers, St. Helena Phase  
WD = Plains Woodland  
AR = Archaic  
NSC = Non-Specific Ceramic  
EA-TRR = Transportation Routes  
EA-URB = Urban  
EA-FAR = European/American, Farm/Ranch  
EA-ICE = European/American Industrial/Commercial Enterprises  
NSC = Non-Specific Ceramic  
UNP = Unknown Prehistoric  
UNH = Unknown Historic  
UNK = Unknown  
CD-PAW = Pawnee  
CO-RED = Coalescent Villagers, Redbird Phase  
WN-DIS = Western Nebraska Protohistoric, Dismal River Complex  
SS = Sedentary Siouan

### **NATREG (National Register Status)**

UNK = Unknown/Unevaluated  
POE = Evaluated by Professional Archaeologist as Potentially Eligible  
ONR = Listed on National Register of Historic Places  
ELE = Determined as Eligible for the National Register by State Historic Preservation Officer  
ELN = Determined as Not Eligible for the National Register by State Historic Preservation Officer

### **SURNO (Record Control Number)**

### **TYPE (Type of Cultural Resource Survey)**

I = Intensive Survey Conducted By a Patterned Search  
R = Reconnaissance Survey Conducted By an Unpatterned Search

### **SIZE (of Surveyed Area)**

Expressed in Acres

### **OTHER**

NHAP-PSS = Nebraska Highway Archeology Program - Project Survey Summary